

EXHIBIT D

CONFIDENTIAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

STUDENTS FOR FAIR ADMISSIONS

Plaintiff,

v.

THE UNITED STATES NAVAL
ACADEMY, *et al.*,

Defendants.

No. 1:23-cv-2699-RDB

REBUTTAL EXPERT REPORT OF DAKOTA L. WOOD

destroys all of the aspects of effectiveness that the Academy says it values and that are important to national security: team coherence, trust, mutual good will, and confidence that each has “earned their spurs” and respect.

All of the Academy’s arguments are inherently flawed or are based on flawed presumptions, which are echoed in the expert opinions assembled by the Academy to support its position.

II. Sherwood and Bailey’s historical analyses are incomplete and irrelevant to the all-volunteer military of the 21st Century.

Dr. Sherwood and Dr. Bailey both heavily emphasize historical examples of racial discrimination in the military and imply—or outright claim—that such examples will reemerge if the Academy ceases to consider race in admissions. Not coincidentally, both experts also omit crucial historical context and ignore fundamental differences between today’s military and the Vietnam-era military.

Sherwood. Sherwood⁵ provides a historical overview of racial issues in the U.S. military during the 19th and 20th centuries. Sherwood’s declaration is an interesting read, but it is also irrelevant to the argument that racial considerations in today’s military are important (much less imperative) to the country’s security.

Sherwood’s own report demonstrates that treating people badly leads to trouble. When marginalized and disfavored groups are added to a military, and they continue to be mistreated, the force suffers problems. When the groups are not mistreated, the force

⁵ The report simply incorporates by reference Dr. Sherwood’s declaration to this Court. See Sherwood Report, 1. Thus, all future citations will be to paragraphs from Sherwood’s declaration. See Dkt. 46-7.

benefits. This is not because the force is diverse; it is because the evils that accompany abusive treatment don't exist in the force and the military force gains the benefit of good morale and motivation and the productive contributions of more people. Any group that is treated fairly, provided good leadership, is well supplied, and has a defined purpose will do good work regardless of its racial or ethnic composition. This is what history shows, both in the record assembled by Sherwood and in my own experience serving in and studying the military.

Group dynamics in military forces typically reflect what is occurring in general society. But military forces can be better or worse than society because of their comparatively closed system, wherein leadership can adopt and enforce policies that lead to people being treated better or worse than in the larger society. This is an essential aspect of leadership. Poor leaders produce poor results; good leaders produce the opposite. When leaders differentiate their subordinates according to race, or any other characteristic, they create conditions that make it harder to build teams and to generate effective military power.

Sherwood cites Roosevelt's EO 8802 "affirming the policy of full participation in the defense program regardless of color, race, creed, and national origin' and directing the armed forces to 'lead the war in erasing discrimination over color or race.'"⁶ Sherwood's citation of Roosevelt is fascinating, considering that the Academy's admissions

⁶ Dkt. 46-7, ¶23.

policies *contravene* Roosevelt's directions. The President intended for the U.S. military to erase discrimination; the text of the policy reveals a desire that race would no longer be a factor in any aspect of military service. Yet the Naval Academy continues to believe that race *is* a factor and, through its admissions policy, intends to sustain it in perpetuity.

The whole of Sherwood's declaration is a historical record of the bad things that result when people are treated unequally. The importance of equal treatment is revealed by Sherwood himself in paragraphs 64 and 65 of his declaration. In paragraph 64, he states: "Once at USNA, these classes [of 1980-99] discovered a relatively integrated school and did not experience the racism and ostracism early Black midshipmen had endured."⁷ In paragraph 65, Sherwood states: "By the end of the twentieth century, the USNA had emerged as what Schneller calls an 'unparalleled opportunity for black men and women.'"⁸ He further argues that "the last vestiges of conscious institutional discrimination" were "purged from Naval Academy in 1976."⁹ Finally, Sherwood observes that "African Americans in the classes of 1980-99 remained fully integrated into brigade life and enjoyed equal access to Academy opportunities."¹⁰

Sherwood errs a few paragraphs later, however, by assuming that correlation equals causation: "[It] is not coincidental that the increase in Black USNA graduates corresponds with the decrease in racial incidents experienced in the Navy and Marine

⁷ Dkt. 46-7, ¶64.

⁸ Dkt. 46-7, ¶65.

⁹ Dkt. 46-7, ¶65.

¹⁰ Dkt. 46-7, ¶65.

Corps. The more Black midshipman perceive the Navy and Marine Corps as treating them fairly—including through the presence of Black officers—the less likely it is that racial tensions will exist.”¹¹ It is far more likely that the decrease in racial tensions has been the result of simply treating people better—which stems from the change in attitudes, values, and perspectives that has occurred across society and throughout the military over the past half-century. Progress was slow, of course, but it is undeniable; the changes in the Academy of the 1980s noted by Sherwood are a clear example.¹² Indeed, the problems Sherwood identifies almost certainly stemmed from larger society prejudice and the overall condition of race relations in America; and eliminating those problems (and treating Black Midshipmen more fairly) resulted in improvement across the board.

Sherwood’s conclusion—that “[t]he historical record makes clear that a lack of diversity leads to racial unrest”¹³—misses the point that racial prejudices in the larger society led to inequalities, which resulted in the tensions that led to unrest. Fix the larger societal problem and you solve the military problem, as illuminated by Sherwood’s discussion of conditions for minorities at the U.S. Naval Academy since 1980.

Bailey. Bailey’s report closely parallels Sherwood’s, makes largely the same argument(s), and contains the same fundamental errors. Notably, however, Bailey makes

¹¹ Dkt. 46-7, ¶67; *id.* ¶73.

¹² Dkt. 46-7, ¶64 and ¶65.

¹³ Dkt. 46-7, ¶76.